

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

BARRY GARVIN,)	
)	
Movant,)	
)	
v.)	CR404-252
)	CV421-281
UNITED STATES OF AMERICA,))	
)	
Respondent.)	

ORDER

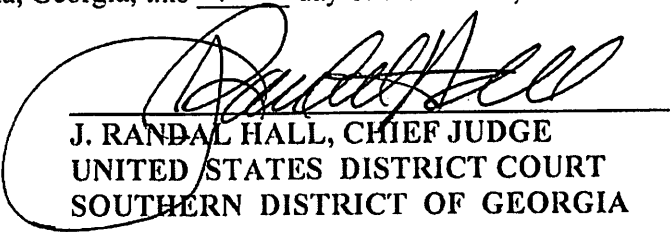
After a careful de novo review of the record in this case, the Court concurs with the Magistrate Judge’s Report and Recommendation (R&R), to which no objections have been filed. Accordingly, the R&R is **ADOPTED**, Garvin’s 28 U.S.C. § 2255 Motion is **DENIED**, (CV421-218, doc. 2; CR404-252, doc. 300), and the civil case, CV421-281, is **DISMISSED**.

Further, a prisoner seeking relief under 28 U.S.C. § 2255 must obtain a certificate of appealability (“COA”) before appealing the denial of his application for writ of habeas corpus. 28 U.S.C. § 2253(c)(1)(B). This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in *Slack v. McDaniel*, 529 U.S. 473, 482-84 (2000), movant has failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case.¹ Moreover, because there are no non-frivolous issues to raise on

¹ “If the court denies a certificate, [a party] may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2255 Proceedings.

appeal, an appeal would not be taken in good faith. Accordingly, movant is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

ORDER ENTERED at Augusta, Georgia, this 16th day of November, 2022.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA